

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

March 22, 2011

In the Matter of BRADFORD, Minors.

No. 300187

Branch Circuit Court

Family Division

LC No. 08-003857-NA

Before: GLEICHER, P.J., and WHITBECK and OWENS, JJ.

PER CURIAM.

Respondent-appellant, the mother of the involved minor children, appeals as of right a circuit court order terminating her parental rights to the children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

The Department of Human Services (DHS) petitioned for temporary custody of respondent's two sons in February 2008, after a fire originating in a methamphetamine laboratory damaged a home respondent and the children shared with respondent's boyfriend. The petition asserted that respondent acknowledged that she and the children were home when the fire occurred. According to the petition, respondent "admitted to [a] . . . worker . . . that she has been using methamphetamines since approximately December of 2007 when she met" her boyfriend, and that she "uses [methamphetamines] a few times a week," and also frequently used marijuana. A supplemental petition added that a test of respondent's oldest child's hair follicles revealed he "has not only been exposed to meth but has ingested it according to the levels at which he was positive." The circuit court exercised jurisdiction over the children in March 2008 on the basis of respondent's admission to some of the petition's allegations.

The court ordered respondent to comply with random drug screens, complete an outpatient drug treatment program, attend counseling and Narcotics Anonymous meetings, shield the children from contact with respondent's boyfriend, participate in parenting classes, obtain employment, "maintain a safe and stable home environment," undergo a psychological evaluation, and visit the children on the condition that she submit negative drug screens. Respondent achieved sporadic compliance with her treatment plan components, prompting the DHS to file a petition seeking to terminate her parental rights under MCL 712A.19b(3)(c)(i), (g), and (j). At the close of an August 2010 termination hearing, the circuit court ruled from the bench as follows:

The ones that are being punished by this proceeding are these two little boys. This isn't about that. It's about trying to get them in the best position

possible, recognizing the circumstance that they're placed in as a result of the neglect of their parents, either intentionally or unintentionally, they're not in a position to provide care for them, and they're suffering as a result.

And the State steps forward and everyone does the best that they can. And it's sad to this Court that the best just quite isn't good enough because those boys love their parent. They love their mom.

And by taking the action that I'm about to take, I'm taking that hope away from them. . . . There's no particularly happy ending.

* * *

. . . For whatever reason, whether . . . [respondent is] upset at the system, the department, the Court, the lawyers, whatever, since April, she's opted out.

And I recall very well suspending her visits prior to that because she showed up for a visit, . . . one of the few times she was able to visit because she tested negative, and she stayed for ten minutes. And I found that emotionally harmful and traumatic to the children. It wasn't good for them to go through that.

The . . . statutory criteria has [sic] all been established. The same conditions . . . that existed at the time of the original petition exist now. Drug may have changed. At least we've moved from methamphetamine to marijuana . . . Marijuana is not as terrible as methamphetamine. It doesn't blow up and . . . place the children in physical danger of being burned. But it's still not acceptable.

And [respondent's boyfriend] is still involved in the life of this young woman. What is she, 28, going to be 29? She's not a child. She's not a little girl. . . . She's a reasonably intelligent young woman with two children and she's making choices that she has to understand are going to result in her losing her parental rights. And I think as a result, that in a way, that's a relief to her.

Certainly, [subsection (g)] . . . [h]as been established.

. . . [A]ll it takes is for her to go for some period of time without testing positive for something. And she was never willing to do that.

The court also found subsection (j) established by clear and convincing evidence, then turned to a consideration of the children's best interests:

So here we are. Is it in their best interest? I don't get to pick where they go. . . .

I don't know where these boys are going to go. And my experience here makes me hesitate. The longer you're in this position, the more often you see endings that are not happy. I don't get to know where they're going to go.

I do know that they're ten and seven, and that's different than three months old or a year old or two years old. They remember. A ten year old remembers his grandfather that's no longer going to be able to be part of his life. And he'll forever have that, the emotional trauma that comes from losing that. So does a seven year old.

I've attempted to find a way out for them and I can't. Mom doesn't even appear. I'll sign an order terminating parental rights. It's the only option that's available to these children. How long do we wait? It's been two-and-a half years.

Mom's still involved with [her boyfriend] up until a short time ago. I hope for her sake she's able to get that evil out from her life, but I have no expectation she'll be able to.

Respondent does not dispute that clear and convincing evidence existed to support the statutory grounds for termination in MCL 712A.19b(3)(c)(i), (g), and (j). She submits only that "insufficient evidence" proved that termination served the children's best interests. MCL 712A.19b(5). We review for clear error a circuit court's finding concerning a child's best interests. *In re Williams*, 286 Mich App 253, 271; 779 NW2d 286 (2009). Clear error exists when, although some evidence supports a finding, "the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made." *Id.* (internal quotation omitted).

Our review of the entire record in this case reveals abundant evidence that termination of respondent's parental rights served the children's best interests. Notably, after the children's removal from respondent's care, respondent continued to live with the same boyfriend who had endangered the children by causing a methamphetamine-related explosion in their home, and respondent continued a similar substance abusing lifestyle. Although respondent completed a substance abuse treatment program, she nonetheless consistently tested positive for alcohol or marijuana use, when she submitted drug screens at all, over the lengthy course of these child protective proceedings. She visited the children intermittently, did not maintain contact with the DHS, and did not attend the termination hearing.

Respondent first argues with respect to the children's best interests that she and the children shared a loving bond. A case worker did testify that the children had expressed that they missed respondent, but scant evidence showed that respondent felt bonded to the children, especially in light of her exertion of little effort to obtain and attend parenting times, and her ongoing substance abuse and residence with the man who had endangered the children with his methamphetamine manufacturing. Respondent further complains that the court should have afforded her more time to comply with her treatment plan components because no evidence suggested that the children would soon be adopted. We emphasize, however, that at the time of termination hearing, approximately 2-1/2 years after the children's removal from respondent's care, she had neither remedied any of the factors that caused the children's removal from her care nor had undertaken any substantial efforts toward doing so. In summary, we detect no clear

error in the circuit court's finding that termination served the children's best interests. *In re Williams*, 286 Mich App at 271.

Affirmed.

/s/ Elizabeth L. Gleicher

/s/ William C. Whitbeck

/s/ Donald S. Owens